

AMENDED IN SENATE JULY 9, 1998

AMENDED IN SENATE JUNE 17, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1216

Introduced by Assembly Members Kaloogian and Sweeney
(Principal coauthor: Assembly Member Baldwin)
(Principal coauthor: Senator Haynes)

February 28, 1997

An act to add Chapter 6.6 (commencing with Section 49091.10) to Part 27 of the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1216, as amended, Kaloogian. School districts: ~~Education Empowerment Act of 1998~~ *parental, pupil, and teacher procedures.*

~~Existing law requires the Legislature to provide for a system of common schools by which a free school shall be kept up and supported in each district, and establishes the public school system to provide free educational services. Existing law requires establishment of certain local educational agencies and authorizes the formation of school districts for provision of free educational services.~~

~~This bill would enact the Education Empowerment Act of 1998 to strengthen local education decisionmaking, teacher rights, academic freedom, and parental responsibility. The bill would declare that control over education provided in a public school is vested in the community in which the public~~

~~school is located, and is best exercised by the governing board of the school district.~~

~~Existing law, the George Miller Jr. Education Act of 1968, with certain exceptions, establishes certain minimum statewide curriculum standards for public schools.~~

~~This bill would provide that the Legislature shall have the exclusive authority to prescribe minimum requirements for elementary and secondary school graduation. The bill would require all other curricular requirements to be under the sole discretion of the governing board of the school district.~~

Existing law grants pupils, parents, and guardians certain rights regarding the delivery of educational services. Existing law requires the governing board of each school district at the beginning of each school year to notify the parent or guardian of its minor pupils regarding the rights or the responsibilities of the parent or guardian under certain provisions of law, including the right to be excused from health, family life, and sex education instruction due to religious beliefs and the right to refuse a physical examination of pupils.

~~This bill would provide that parents and guardians shall possess authority and control over the instruction and education of their minor children, and would impose a state-mandated local program by requiring that all primary and *planned* supplemental instruction materials and assessments be made available promptly for inspection by a parent or guardian of a pupil, and by granting the parent or guardian the right to observe the instruction and other school related activities that involve his or her child, in a reasonable timeframe in accordance with procedures determined by the governing board of the school district.~~

~~This bill would prohibit a pupil from being compelled to reveal, affirm, or disavow any particular world view, religious doctrine, personally and privately held belief, or political opinion. The bill would prohibit a pupil from being ~~screened or observed~~ *referred* for a behavioral, mental, or emotional evaluation without the consent of his or her parent or guardian. The bill would prohibit a school from requiring a pupil to participate in any survey.~~

The bill would require the curriculum, including titles, descriptions, and ~~time allocations~~ *instructional aims* of every

course offered by a school district, to be published at least once annually by the school district in a prospectus, thereby imposing a state-mandated local program.

Existing law authorizes the governing board of a school district to provide a comprehensive educational counseling program for all pupils and requires confidentiality of information received while counseling a pupil 12 years of age or older, except as specified.

This bill would prohibit a school from requiring a pupil or a pupil's family to participate in any assessment, analysis, evaluation or monitoring of the quality or character of a pupil's home life, any form of parental screening or testing, any *nonacademic* counseling, or home-based program, parent training, or any prescribed family education service plan.

~~Existing law sets forth certain authorized and certain prohibited courses or areas of instruction.~~

~~This bill would prohibit a teacher from being penalized for refusing to use experimental or unproven methods of instruction, or for using methods other than those prescribed if the methods used are consistent with the age and sophistication of the student and result in a satisfactory progress toward established standards of pupil performance.~~

Existing law sets forth the rights and responsibilities of teachers.

The bill would provide that ~~notwithstanding the provisions of locally negotiated employment contracts,~~ teachers shall have the greatest possible flexibility in determining the manner in which they achieve the substantive objectives of ~~teacher training or in-service programs training, consistent with locally negotiated collective bargaining agreements.~~ The bill would provide that a teacher has the right to refuse to submit to any evaluation or survey that addresses certain matters.

Existing law, with certain exceptions relating to mistake, fraud, bad faith, or incompetence, requires the grade given to each pupil to be the grade determined by the teacher of the course, requires the determination of the pupil's grade by the teacher, and prohibits the governing board of the school district or the superintendent of the district from ordering a pupil's grade to be changed, unless the teacher who

determined the grade is given an opportunity to state orally, in writing, or both, the reasons for which the grade was given and is included in all discussions relating to the changing of the grade.

This bill would grant teachers the right to determine the standard for assigning grades to the pupils in their classrooms.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 6.6 (commencing with Section
2 49091.10) is added to Part 27 of the Education Code, to
3 read:

4
5 ~~CHAPTER 6.6. — EDUCATION EMPOWERMENT ACT OF 1998~~

6
7 ~~Article 1. — Purpose~~

8
9 ~~49091.10. This chapter shall be known, and may be~~
10 ~~cited as, the Education Empowerment Act of 1998. The~~
11 ~~purpose of this chapter is to strengthen local education~~
12 ~~decisionmaking, teacher rights and responsibilities,~~
13 ~~academic freedom, and parental and pupil rights, as~~
14 ~~expressed in Section 49091.43, and responsibilities.~~

15 ~~49091.15. Control over the education provided in a~~
16 ~~public school is vested in the community in which the~~
17 ~~public school is located, and is best exercised by the~~
18 ~~governing board of the school district because it is elected~~

1 ~~by and is answerable to the community that it serves; is~~
2 ~~more directly accessible to the parents of the pupils of the~~
3 ~~school; is embedded in the community and imbued with~~
4 ~~its values and concerns; and is devoted solely to the~~
5 ~~provision of schooling within the community.~~

6
7 Article 2. ~~Local Decisionmaking~~
8

9 ~~49091.20. (a) Notwithstanding any other provision of~~
10 ~~law, the Legislature shall have exclusive authority to~~
11 ~~prescribe minimum requirements for elementary and~~
12 ~~secondary school graduation.~~

13 ~~(b) Notwithstanding any other provision of law, all~~
14 ~~other curricular requirements shall be under the sole~~
15 ~~discretion of the governing board of the school district.~~

16 ~~(c) The governing board of a school district shall have~~
17 ~~the greatest possible flexibility in curriculum adoption~~
18 ~~that is consistent with state law.~~

19
20 Article 3. ~~Evaluation~~
21

22 ~~49091.30. Statewide performance-based assessments~~
23 ~~may not be used as the sole basis for grading, promotion,~~
24 ~~or graduation in the public schools.~~

25
26 Article 4. ~~Pupil and Parental Rights and Responsibility~~
27

28 ~~49091.40. Parents and guardians shall possess~~
29 ~~authority and control over the instruction and education~~
30 ~~of a minor child until the child has reached 18 years of age.~~
31 ~~The parents and guardians of individuals with exceptional~~
32 ~~needs shall retain the right to negotiate an educational~~
33 ~~program to satisfy special needs.~~

34 ~~49091.41. (a) All primary and supplemental~~
35

CHAPTER 6.6. PARENTAL, PUPIL, AND TEACHER
PROCEDURES

Article 1. Parental Review

49091.10. (a) All primary and planned supplemental instructional materials and assessments, including textbooks, teacher's manuals, films, tapes, software, electronic media and software shall be available promptly for inspection by a parent or guardian in a reasonable timeframe and in accordance with procedures determined by the governing board of the school district.

(b) A parent or guardian has the right to observe instruction and other school activities that involve his or her child in accordance with procedures determined by the governing board of the school district to ensure the safety of pupils and to prevent undue interference with instruction. Reasonable accommodation of parents and guardians shall be considered by the governing board of the school district.

(c) Upon written request by the parent or guardian, school officials shall arrange for the parental observation of the requested class or classes or activities by that parent or guardian in a reasonable timeframe and in accordance with procedures determined by the governing board of the school district.

~~49091.43.—~~

49091.12. (a) A pupil may not be compelled to reveal, affirm, or disavow any particular world view, religious doctrine, personally and privately held belief, or political opinion.

(b) A pupil may not be ~~screened or observed~~ referred for a behavioral, mental, or emotional evaluation without the informed written consent of his or her parent or guardian. Nothing in this chapter shall be construed to restrict the authority of school officials to investigate and intervene in cases of suspected child abuse.

~~(c) A school may not require pupils to participate in any survey.~~

~~(d)—~~

(c) A general consent, including medical consent used to approve admission to or involvement in, a special education or remedial program or regular school activity, does not constitute written consent under this section.

~~49091.45.—~~

~~49091.14. The curriculum, including titles, descriptions, and time allocations instructional aims of every course offered by a school district, shall be published at least once annually by the school district in a prospectus. The prospectus shall state the instructional aims and methods of every course. Each pupil shall receive a copy of the prospectus for courses for which the pupil is eligible to enroll. Each prospectus shall be made available to the public free of charge. A copy of each prospectus shall be filed with the State Department of Education.~~

~~Article 5.—Parental Privacy~~

~~49091.50. Because the Legislature does not recognize the validity of coerced contracts, a school may not require Each schoolsite shall make available to the public a copy of the prospectus for review upon request. The prospectus shall be reproduced and made available for purchase at a cost not to exceed the cost of duplication. A notice of availability of the prospectus shall be made at a public hearing by the governing board of the school district and included in the annual mailing by schools to individual parents and guardians in the beginning of the school year.~~

~~49091.16. A school may not require or compel any parent or guardian to enter into any compact or any other partnership that will share responsibility for a pupil's educational performance between the school or any outside agency and the parent or guardian. These agreements are valid only when all parties enter into the agreements voluntarily. A pupil may not be penalized because a parent or guardian refuses to enter into any compact or other partnership agreement with the school or any outside agency.~~

~~49091.55.—agreement.~~

49091.18. A school may not require a pupil or a pupil's family to submit to or participate in any of the following:

(a) Any assessment, analysis, evaluation, or monitoring of the quality or character of the pupil's home life.

(b) Any form of parental screening or testing.

(c) Any *nonacademic* counseling or home-based program.

(d) Parent training.

(e) Any prescribed family education service plan.

~~49091.56.—~~

49091.19. No provision of this chapter shall be construed as restricting teachers in the assignment of homework.

Article 6 2. Teacher Rights and Academic Freedom

~~49091.60.—A teacher may not be penalized for refusing to use experimental or unproven methods of instruction, or for using methods other than those prescribed if the methods used are consistent with the age and sophistication of the students and result in satisfactory progress toward established standards of pupil performance.~~

~~49091.62.—(a) Notwithstanding the provisions of locally negotiated employment contracts, teachers shall~~

49091.20.(a) Teachers shall have the greatest possible flexibility in determining the manner in which they achieve the substantive objectives of in-service training, *consistent with locally negotiated collective bargaining agreements.*

(b) Teachers shall determine the standard for assigning grades that he or she assigns to the pupils in their classrooms.

~~49091.64.—~~

49091.24. A teacher shall have the right to refuse to submit to any evaluation or survey concerning the following:

(a) Personal values, attitudes, and beliefs.

1 (b) Sexual behavior, attitudes, and orientation.

2 (c) Political affiliations or opinions.

3 (d) Critical appraisals of other individuals with whom
4 the teacher has a family or professional relationship.

5 (e) Religious affiliations or beliefs.

6 ~~49091.66. (a) A teacher shall have the right to access,
7 inspect, or review his or her personnel records and
8 teacher evaluations, including all written or
9 electronically recorded material that is incorporated into
10 his or her personnel record in a reasonable timeframe as
11 determined by the governing board of the school district.~~

12 ~~(b) The~~

13 ~~49091.26. (a) A teacher has the right and professional~~
14 ~~duty to adhere to his or her job description and may not~~
15 ~~be forced to provide psychological or social services.~~

16 ~~(c) Each teacher shall be given effective notice of his~~
17 ~~or her rights under this chapter.~~

18 ~~(b) Nothing in this section shall be construed to~~
19 ~~prohibit a teacher from providing human compassion to~~
20 ~~a pupil experiencing emotional distress.~~

21 SEC. 2. Notwithstanding Section 17610 of the
22 Government Code, if the Commission on State Mandates
23 determines that this act contains costs mandated by the
24 state, reimbursement to local agencies and school
25 districts for those costs shall be made pursuant to Part 7
26 (commencing with Section 17500) of Division 4 of Title
27 2 of the Government Code. If the statewide cost of the
28 claim for reimbursement does not exceed one million
29 dollars (\$1,000,000), reimbursement shall be made from
30 the State Mandates Claims Fund.

31 Notwithstanding Section 17580 of the Government
32 Code, unless otherwise specified, the provisions of this act
33 shall become operative on the same date that the act
34 takes effect pursuant to the California Constitution.